

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CRAIG PAYTON,

Plaintiff,

v.

UNION PACIFIC RAILROAD CO.,

Defendant.

Case No. 2:23-cv-1886-DC-CSK

DISCOVERY ORDER RE: COMPEL
DEPOSITION OF NON-PARTY STEVEN
JONES

(ECF No. 34)

Pending before the Court is Plaintiff Craig Payton's motion to compel the deposition of Steven Jones, a non-party and former employee of Defendant Union Pacific Railroad Co. (ECF No. 34.) Mr. Jones was properly served with the notice of motion and motion, and did not file an opposition or response. Defendant does not oppose Plaintiff's motion to compel and agrees that Mr. Jones' deposition should be compelled. A hearing was held on July 12, 2025 where Jessica Danielski appeared as counsel for Plaintiff, and Simone Leighty appeared as counsel for Defendant. Despite being served with Plaintiff's notice of motion and motion, Mr. Jones did not attend the hearing. As stated on the record, the Court GRANTED Plaintiff's motion to compel Mr. Jones' deposition.

"Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case[.]" Fed. R. Civ.

1 P. 26(b)(1). Proportionality turns on “the importance of the issues at stake in the action,
2 the amount in controversy, the parties' relative access to relevant information, the
3 parties' resources, the importance of the discovery in resolving the issues, and whether
4 the burden or expense of the proposed discovery outweighs its likely benefit.” *Id.*
5 “[B]road discretion is vested in the trial court to permit or deny discovery....” *Hallett v.*
6 *Morgan*, 296 F.3d 732, 751 (9th Cir. 2002). Mr. Jones was an employee of Defendant at
7 the time of the underlying incident and a witness to the underlying issues raised in this
8 action. As such, his testimony is relevant to Plaintiff’s claims and Defendant’s defenses,
9 and properly sought here. See Fed. R. Civ. P. 26(b)(1).

10 Depositions of non-parties are governed by Federal Rules of Civil Procedure 30
11 and 45. “A party may, by oral questions, depose any person, including a party, without
12 leave of court except as provided in Rule 30(a)(2). The deponent's attendance may be
13 compelled by subpoena under Rule 45.” Fed. R. Civ. P. 30(a)(1). Pursuant to Federal
14 Rule of Civil Procedure 45, Mr. Jones was twice properly subpoenaed to attend and
15 testify at a deposition, and he was served with both subpoenas. See Pl. Mot. at 3-4;
16 Decl. of Jessica Danielski ¶¶ 5-6, 9, 11-13 (ECF No. 34-1). Plaintiff made extensive
17 efforts to locate, contact, and serve Mr. Jones with the subpoenas for his deposition.
18 Despite this, Mr. Jones did not attend the first deposition on September 16, 2024 or the
19 second deposition on June 3, 2025. See Pl. Mot. at 3-4; Danielski Decl. ¶¶ 9, 13 & Exhs.
20 G and I. Counsel for both Plaintiff and Defendant attended both depositions, and a
21 record was made of Mr. Jones’ failure to appear at each deposition. *Id.*

22 Mr. Jones is expressly warned that the failure to comply with the Court’s order to
23 attend and participate in his deposition may result in the imposition of sanctions against
24 him, including contempt of court, costs for all missed depositions, and reasonable
25 expenses including reasonable attorney’s fees for all missed depositions.

26 CONCLUSION

27 The Court GRANTS Plaintiff’s unopposed motion to compel Steven Jones’
28 deposition (ECF No. 34). Mr. Jones is ordered to attend his deposition as will be set by a

1 third deposition notice and subpoena.

2 Plaintiff must personally serve a copy of this order on Mr. Jones.

3 The Clerk's Office is directed to send a courtesy copy of this order by e-mail to
4 Mr. Jones at his e-mail address in the record (stevenjones@yahoo.com).

5 IT IS SO ORDERED.

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7 Dated: July 22, 2025

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9 CHI SOO KIM
UNITED STATES MAGISTRATE JUDGE

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